

Report of Chief Planning Officer

Report to Corporate Governance and Audit Committee

Date: 23 April 2012

Subject: Assurances of the process by which planning decisions are taken by the Council

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report responds to the request of the Corporate Governance and Audit Committee to provide an annual report setting out the arrangements in respect of planning decision taken by the Council in 2011-12. It will provide assurance to the Committee as to the operation of the arrangements and processes in place, ensuring they are up to date, accountable, transparent, have integrity, and are effective and inclusive.
2. Emphasis this year has been placed on member and officer training, which ensures decisions are being taken with the most up to date knowledge and guidance available. Collaboration on training with the West Yorkshire authorities is providing members and officers with increased opportunities for training and learning on a range of subjects.
3. The service has an ongoing commitment to service improvement and a number of activities have taken place during 2011-12 to ensure the decision making process is more robust and accountable. This includes a Town and Parish Council survey which has highlighted good practices and areas where the service can improve; improved clarity on the content of Section 106 obligations on employment, training and skills and a more transparent approach to pre-application presentations at plans panel meetings which are now on the agenda, open to the public and minuted.
4. Effective decision making can be evidenced in a number of ways including performance on complaints, appeals and number of decisions taken that are contrary to the officers recommendation. Numbers of upheld complaints has reduced from the

previous year; about 70% of appeals on the grounds of refusal of planning permission have been dismissed and the number of decisions which are contrary to the officers recommendation remains steady at 6.4% of decisions made by members, demonstrating that members and officers are working effectively together.

Recommendation

Members are asked to:

- I. note the contents of this report and the robust assurance that it provides in terms of the methodology used in taking planning decisions at the Council ;
- II. receive a report on planning decisions on an annual basis

1 Purpose of this report

- 1.1 This report responds to the request of the Corporate Governance and Audit Committee to set out the arrangements in respect of planning decision taken by the Council in 2011-12 . The services places considerable emphasis on good governance and will provide assurances to the Committee as to the operation of the arrangements and processes that are in place, ensuring they are up to date, accountable, transparent, have integrity, and are effective and inclusive.
- 1.2 This report outlines the arrangements that are in place to underpin the decision making process within the remit of the Chief Planning Officer:
 - Planning decisions taken by the Plans Panel
 - Planning decisions taken by officers under delegated authority
- 1.3 Consideration is given to the risk of challenge and the measures in place to mitigate any potential risks and to the programme of continuous improvement ensuring that processes take into account best practice and lessons learnt from past errors.
- 1.4 This report provides information for 2011-12 and covers data up to the end of March 2012 unless otherwise stated.

2 Background information

- 2.1 The planning system in England and Wales is plan-led. This involves preparing plans that set out what can be built and where. All decisions on applications for planning permission should be made in accordance with the Development Plan unless material planning considerations indicate otherwise.
- 2.2 The decision on whether to grant permission is within the context of the development plan and other material considerations which includes national and local planning policy and guidance. Material considerations covers a wide variety of matters including impact on neighbours and the local area.

- 2.3 All applications are publicised so the public are aware of them and some are subject to more detailed consultation (depending on their scale and sensitivity).
- 2.4 In 2011-12 a total of 4,137 decisions have been made by Leeds City Council acting as the Local Planning Authority compared to 4,196 in 2010-11. The decisions have been made by one of two methods: by the Plans Panels or by officers under the scheme of delegation.

3 Main issues

3.1 Decision making framework

- 3.1.1 This section looks at the framework within which decision making occurs- by the plans panels or by officers under the Council's delegation scheme.

3.2 Plans panels

- 3.2.1 There are three Plans Panels in Leeds - East, West and City Centre. Each panel is authorised to discharge functions within its own geographical area and comprises a number of council members from across all political parties. The Plans Panel terms of reference are included as appendix 1.
- 3.2.2 There are a number of types of applications and circumstances where a Plans Panel would consider an application and these are described as "exceptions" in the officer delegation scheme as functions the Chief Planning Officer is not allowed to discharge. Normally, it is the largest and strategically important applications, together with those applications that would constitute a significant departure from the development plan or those with significant local sensitivities that would go to panel.
- 3.2.3 Requests to the Chief Planning Officer from a ward member for an application to come to Panel can be made - the request needs to be made in writing within 21 days of the date of notification, which is the statutory advertisement and consultation deadline for representations, after which time a decision could legally be made.
- 3.2.4 During 2011-12, 171 decisions have been made by the three plans panels. This compares with 225 decisions in 2010-11, the increase in numbers in 10-11 was largely due to the number of PFI applications (for minor revisions or extensions of time) which came before the panel that year.
- 3.2.5 The Council has a *Code of Practice for the Determination of Planning Matters which Members* adhere to. This code is monitored and reviewed for any breaches and during this reporting period no complaints were made about breaches of the code.

3.3 Delegation scheme

- 3.3.1 The Chief Planning Officer is authorised to carry out functions on behalf of the council. The delegation scheme forms part of the Constitution and was last reviewed at the end of 2010 and approved by Full Council in May 2011.
- 3.3.2 All planning applications are considered to fall within the delegation scheme and will be determined by officers under the sub-delegation scheme, unless they fall into defined exceptional categories. The exceptions, are determined by Plans Panels are set out in appendix 2 of this report.
- 3.3.3 However, the Plans Panel may arrange for the discharge of any of its functions by the Chief Planning Officer.

3.4 Sub delegation scheme

- 3.4.1 The scheme sets out which functions have been sub-delegated by the Chief Planning Officer to other officers and any terms and conditions attached to the authority sub-delegated by the Chief Planning Officer. The latest sub delegation scheme was approved on 22nd June 2011.
- 3.4.2 In 2011-12 , 3,996 decisions were made by officers under the delegation scheme. The delegation rate for the year was therefore 95.9%, a small increase on 2010-11 where the delegation rate was 94.7%. This is in accordance with good practice, which suggests that over 90% of planning decisions should be delegated¹ and nationally during quarter 3 of 2011, English authorities delegated 91% of decisions to planning officers.²
- 3.4.3 The service recognises the importance of ensuring that the arrangements in place for decision making on planning applications are accountable, transparent and effective and there are a number of measures in place to provide assurance in the process.
- 3.4.4 There is a clear process for the determination of planning applications which is adhered to by all officers which ensures a consistent and accountable approach is taken. Officer reports address all the relevant policies and issues and take into account the views of consultees and representations made by the public. All information is considered and a recommendation is made.
- 3.4.5 The sub-delegation scheme ensures that decision making is undertaken at the appropriate level of seniority and experience. Each report is checked thoroughly by a more senior officer to ensure that all material considerations have been addressed and that there is a clear basis for the decision which is being made. During this process the senior officer takes time to acquaint themselves with the details of the application and can ask for additional information or question the case officer on points, in order that thorough and robust consideration is given to each application. No case officer can 'sign off' their own applications. Therefore an appropriate level of external scrutiny is brought to bear on each proposal

¹ Planning Advisory Service Making your mind up- improving planning decision making. 2008

² CLG Planning statistical release, Planning applications: April to September 2011 (England)

before it is finally determined and reports are signed off by officers at Principal Planner level or above.

- 3.4.6 All decisions are publicly available through the planning file and officer reports and decision notices are available online via Public Access, which aids accessibility and transparency.

3.5 Officer conflicts of interest

- 3.5.1 Officers must follow the officer code of conduct and any other rules or requirements in relation to personal conflicts of interest, which apply to them. All officers at principal planner level and above are required to complete a Register of Interests.
- 3.5.2 A precautionary approach is followed within the service to ensure that case officers and decision makers are not involved in matters where potentially a conflict of interest could arise. Where any such conflicts could arise they are normally identified at an early stage in the life of a project and action is taken to reallocate cases to minimize risk and reduce any possible later challenge to the decision making process.
- 3.5.3 Any application for planning approval for officers working in development management are dealt with at Plans Panels, to reduce the risk of challenge on grounds of bias or partiality.

3.6 Ensuring best practice

- 3.6.1 Planning services adopts best practice wherever possible and the following section describes the measures and arrangements in place to ensure that the decision making process is accountable, transparent and effective and there is confidence in the judgements being made.
- 3.6.2 In 2011-12, 100% of staff in planning services received their appraisal. This is important, as it is through the appraisal system that areas for training or development are highlighted in order for individuals to enhance their personal effectiveness, ensuring high quality decision making is maintained and enhanced.
- 3.6.3 Team leaders meet with the head of planning services on a three-weekly basis to review performance, keep up to date with legislation and good practice which ensures there is a consistent approach to decision making
- 3.6.4 Considerable emphasis has been placed on learning and training in 2011-12 for officers. Planning officers have accessed learning through internal and external training provision, for example tree protection seminars from colleagues in the Sustainable Development Unit, Public Inquiry training delivered by Kings Chambers and a "season ticket" for the Royal Town Planning Institute (RTPI) seminars. In circumstances where not all officers have the opportunity to receive the training, the process is to cascade the information to the team to ensure everyone is aware of the changes or new practices. Many officers are members of the RTPI and receive updates and information from their professional body.

- 3.6.5 Nationally, planning is undergoing some significant changes in the context of the government's planning reform agenda – the National Planning Policy Framework (published on March 27th), Localism Act, and Community Infrastructure Levy being some of the main changes. Therefore, it is imperative that officers keep up to date with the legislation and the implications of the changes on service provision in order to effectively deal with applications and make high quality decisions. This has been achieved through internal training and briefings to ensure all officers are informed and their knowledge is current. Feedback was recently provided by an officer who had attended the RTPI Localism conference and Planning Aid seminar on neighbourhood planning, which was useful and highlighted where some of the issues will arise going forward.
- 3.6.6 Members sitting on the plans panels need to undertake training each year. Failure to attend these sessions may mean that the member is unable to sit on a plans panel until the training has been completed. In 2011-12, all members have satisfactorily completed the required compulsory training. Group whips are advised of any concerns that arise from non-attendance at compulsory training sessions and deal with these on a case by case basis.
- 3.6.7 The new Localism Act has introduced provisions to clarify the position on pre-determination, helping ward members to engage in open debate with their communities about council business. Members still need to demonstrate that they have an open mind when determining a planning application, but just because a member has engaged previously in campaigning against a proposed planning application does not mean that the member had a closed mind. Some training and guidance has already been delivered which covers this issue, but there is still need for some caution particularly if a member expresses particularly extreme views, as, coupled with other issues associated with the decision, there is still the risk that members will be accused of not approaching the decision with an open mind.
- 3.6.8 Members have received additional training on the Localism Act and neighbourhood planning and the implications on the service and their role. A new regional training initiative has led to an increase in training opportunities for members. Recent events hosted by Bradford Council on Planning Reform and in Leeds on Flooding and Greenbelt issues have been well received. More events on planning reform, heritage and flooding are planned after the local elections.
- 3.6.9 The Localism Act will need a closer working relationship with ward members and local communities and the service has already implementing this process through its restructure, aligning area teams with Area Committee areas. There are also challenges ahead to ensure there is transparency in the neighbourhood planning process.
- 3.6.10 Best practice measures at panel include the presence of a legal officer and the head of planning services at all plans panel meetings which ensures consistency of decision making across the city. The legal officer provides advice where necessary and ensures that probity and propriety is observed through the decision making process at the panel meeting.

- 3.6.11 Additionally, members of the plans panels are required to be present throughout the whole debate on an application at panel meetings if they are to vote and there is robust minute taking to record who is and who is not present for an application so that clear records are available

3.7 Continuous improvement and quality of service

- 3.7.1 The service is committed to continuous improvement and seeks to ensure that the decision making process is transparent, high quality, fit for purpose and is robust. A number of actions have taken place over the past year resulting in service improvements, which help provide assurance in the decision making process. These are described below.
- 3.7.2 A survey of the Town and Parish Councils in the Leeds district was undertaken in late 2011 to ascertain satisfaction with the planning service and received a 71% response rate. The survey shows that 81% of those responding said that overall they were either very or fairly satisfied with planning services, which is encouraging. The survey did however highlight some room for improvement - only 13 of the 22 respondents (59%) indicated that they thought their comments were taken into consideration when the decision was made and only 40% of respondents said they understood the reasons for the decision. To avoid criticisms relating to inadequate consideration of the issues, inconsistency of decision-making, or claims of unclear reasoning behind a recommendation, officer reports need to be robust, accurate and cover, among other things, the substance of objections and the views of people who have been consulted and their materiality in the decision making process. Work has already been undertaken to improve clarity in officer reports but clearly further work is needed in this area to ensure there is transparency and accountability. In the event of a challenge an officer report would form a key part of the evidence in proceedings.
- 3.7.3 Regular in-service planning officer case workers meetings take place on a regular basis. These meetings are for all planning officers, every six weeks and is a forum for cascading information, guest speakers and sharing of good practice. It allows for the agreement of consistent approaches, discussion of performance issues and is an emerging forum for continuous improvement.
- 3.7.4 The service is committed to learning from past errors and one way of doing this is by analysing complaints and drawing out areas for improvement. At the case workers meeting in March a presentation was given about recent complaints and the measures we will put in place to minimise the risk of complaints on the same subject arising again to give greater confidence in the decisions being reached. A representative from the Ombudsman's office is due to attend a future meeting to highlight other areas where complaints can arise.
- 3.7.5 In 2011 the Major Developers Forum, a group comprising developers, agents, planning officers, parish councillors and community representatives underwent a review to make the group more effective and relevant. The group is now called Leeds Planning and Developers Forum and has increased representation from parish councils, local communities and the development industry and provides an essential forum for two way communication and for sharing ideas and best practice.

- 3.7.6 The Joint Member Officer Working Group, an all party group of members, including the three panel chairs, the Executive Member for Development and planning officers continues to meet regularly to discuss planning issues. This group is an essential forum for discussion of key issues and taking forward service improvements. It also allows for a consistent approach to be taken across all three panels.
- 3.7.7 During 2011-12, the Scrutiny Board (Sustainable Economy and Culture) has undertaken an inquiry into the use of Section 106 obligations for employment, skills and training. Through work between planning services and Employment Leeds, there is now clarity of the procedure with established lines of communication and increased transparency for applicants. A prospectus is being prepared for the development industry, which clearly describes the process, roles and responsibilities of all parties involved, which will make the system more effective and accountable.
- 3.7.8 A new approach has been adopted to aid transparency in the pre-application presentation process at the plans panel. Member engagement in pre-application discussions allows for developers to present their emerging scheme at an early stage and to receive feedback from members. It leads to more informed submissions and it allows for any community concerns to be taken into account at a formative stage of an application. Potentially, it speeds up the determination of an application and brings more certainty into the process. Pre-application presentations have been a valuable part of the planning process at the plans panel for a number of years. All presentations are now on the formal plans panel agenda, are in the public domain (unless the developer can demonstrate why the presentation should be exempt under the provisions of the Local Government Act 1972) and are minuted. This change has meant the process is more transparent, has probity, integrity and is more inclusive.
- 3.7.9 Changes are being made to planning officer responsibilities through a restructure of the service. A principal planning officer or more senior officer will have responsibility for an area 'wedge', meaning there will be a single and consistent point of contact for MPs, members and community groups. These new arrangements will help planning officers gain a clearer understanding of the local and political concerns in an area resulting in better communication and greater sensitivity brought to the decision making process.

3.8 Monitoring and review

- 3.8.1 The service has a number of arrangements in place for internally reviewing decisions and ensuring there is sufficient rigor and consistency in the quality of decision making. The quality of decision making can be demonstrated and evidenced in a number of areas – the number of lost appeals, numbers of complaints and upheld complaints and decisions made contrary to the officer's recommendation. These areas are described below.

3.9 Appeals

- 3.9.1 All applicants have a right of appeal to the Planning Inspectorate against a refusal of planning permission or a failure of the council to determine the application within time limits set by central government. In many cases, particularly those with a highly subjective element or where issues are finely balanced, decision makers may well reach a different conclusion as to what should and should not be permitted. Therefore, the number of appeals made per se should not be used as an indicator of level of performance. However, where appeals are brought, the appellant can apply to the Planning Inspectorate for a costs award against the council in circumstances where the council has acted unreasonably and the appellant has incurred costs as a result.
- 3.9.2 There has been a steady improvement in the performance levels of dismissed appeals on the authority's decision to refuse on planning applications over the last few years. In 2011-12, there have been 259 appeal decisions, which represents about 6% of the total number of decisions made in the year. Of those appeals, about 69% were dismissed, which can be contrasted with 2007-08, when 57% of appeals were dismissed. The improvement can largely be attributed to more robust officer reports and better training for both officers and members, leading to a better decision making process.
- 3.9.3 In 2011-12, there have been seven cost claims awarded against the council, including Grimes Dyke a phase 2 green field housing site which was allowed with partial costs following the Secretary of State's decision in May 2011. The council's grounds for refusal centred on the use of green field sites, housing supply and the impact on regeneration together with the proposed abolition of the Regional Spatial Strategy (RSS) and centrally imposed targets. However, the Secretary of State in granting permission concluded that the housing supply in the city was insufficient to meet current requirements.
- 3.9.4 The strategic position on green field sites has now been clarified with members agreeing to the release of all the phase 2 and 3 housing allocations in the UDP subject to proposals coming forward being otherwise acceptable in planning terms, following a report to the Executive Board in June 2011.
- 3.9.5 Appeal outcomes are regularly reviewed by the head of planning services for common themes, so that action can be sought to reduce the risk of reoccurrence. This is cascaded to planning case workers and at appropriate developer forums
- 3.9.6 Any decisions can be challenged legally under a judicial review, but this can only be done through the courts on the basis of illegality, irrationally or unfairness or procedural impropriety. There have been no successful judicial review proceedings brought in 2011-12.

3.10 Complaints

- 3.10.1 In 2011-12 (to the end of February) the service received 131 complaints at stages 1 and 2. At first glance it appears if the services receives a high number of complaints, however, this should be seen in the context of a total of 3,699 decisions made in the same period. This is a decrease from 2010-11 (full year) when the service received 144 complaints. There has also been a decrease in the numbers

of upheld complaints: 18% (23) so far this year, compared with 25% (36) in 2010-11.

3.10.2 Complaints are an invaluable way of evaluating how the service is performing and helps to identify weak points in our system and address them. A dedicated team deals with all complaints and regularly provides analysis of the complaints information to the planning services leadership team. Learning points are identified which will help mitigate the risk of the complaint arising again. Measures put in place as a result of upheld complaints received this year have been:

- Production of guidance for planning officers to refer to when considering the need to carry out the re advertising of planning applications
- Guidance to planning officers in respect of what can be considered as a non material amendment
- All photographs which are put on Public Access and show vehicle registrations are being edited before publishing on the internet
- Up to date training on permitted development rights

3.10.3 The team also works hard to try to find satisfactory solutions to customer issues, before it turns into a formal complaint.

3.11 Ombudsman and local settlements

3.11.1 Planning services receives most cases from the Ombudsman where there has been a refusal of planning permission or where a decision has been taken that it is not expedient to take enforcement action. In assessing a complaint, the Ombudsman will not be concerned with the nature, quality or reasonableness of the decision itself.

3.11.2 In 2011-12, there have been 20 Ombudsman cases. This is a significant reduction and improvement from the previous year when there were 27 cases. Of these seven were preliminary enquiries and 13 were full cases, of which four required investigation. The Ombudsman reports that the number of cases they receive for Leeds is very small for the size of the city and that there has been a significant change in how we deal with such cases - we are now regarded as a model authority in how we deal with complaints.

	Numbers received	Local settlements
2011-12	20	1
2010-11	27	4
2009-10	21	6
2008-09	24	3
2007-08	56	16

3.11.3 At the time of writing this report, there has been one local settlement, which was for the council to provide screening between the complainant's property and a new building. This is a significant improvement on recent years.

3.11.4 As mentioned in 3.7.4 above, a presentation on recent ombudsman cases took place at a recent case worker meeting and officers are now more aware of the issues and so can take a consistent approach. This centres on officers demonstrating for new developments that the impact on the amenity of existing residents has been fully taken into account and addressed in officer reports. These areas will continue to be monitored.

3.12 Decisions not in accordance with officers recommendation

3.12.1 All reports prepared by officers contain a recommendation which represents the view of the case officers (as cleared by senior colleagues) on the balance of compliance with the development plan and taking into account all other material considerations. Members are not bound to accept the advice of officers as they may take a different view of the weighting that should be applied to different factors in coming to a recommendation. Therefore, sometimes, members make decisions, which are not in accordance with that recommendation. The consequence of this is that it may appear that members and officers are not working well together and there is a potential risk of a lack of confidence in the planning system.

3.12.2 Since the peak in 2006-07, when 24% of decisions made at plans panels were contrary to officers' recommendation, the numbers have steadily decreased. Much work has been carried out over the last few years to ensure that officer reports are robust, members understand the issues and active monitoring by the head of planning services of commonly arising issues goes on. In 2011-12, 6.4% (11 decisions) were contrary to the officers recommendation. This is a slight increase from 2010-11 where 6.2% were contrary to the officer's recommendation. However, this still represents significant continuous improvement over time.

3.12.3 Of the 11 decisions, four were approvals and seven refusals. Four appeals against refusals have been submitted as a result to date - three have been allowed (with no costs awarded) and one has been dismissed.

3.12.4 Where Members do not accept the officers recommendation, planning reasons are formally recorded in the minutes of the meeting, ensuring clarity and transparency in the process of reach the decision. Grounds for refusal must also be robust and defensible. If members resolve to approve an application recommended for refusal then full conditions and reasons are normally tabled at the following meeting for approval.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 This report is presented for information and there has not been the need for wide consultation.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no specific equality considerations arising from this report, as such it has not been necessary to prepare an Equality Impact Assessment.

4.3 Council policies and City Priorities

- 4.3.1 The importance of ensuring that the council's processes for decision making on planning applications are lawful, accountable, transparent, fair and in compliance with the principles of good governance and best practice is crucial to ensuring public confidence in the system from all sectors of the community including residents and developers.
- 4.3.2 The effective and expedient determination of planning applications contributes to the overall prosperity of the City and plays a key part in the regeneration and growth agenda. The service makes a key contribution to the delivery of housing growth, a priority in the City Priority Plan 2011-15.

4.4 Resources and value for money

- 4.4.1 Complaints and appeals can be costly for the council in staff resources and financially in some cases. Therefore it is critical that the system is fair, transparent and robust to minimise the risk of challenge.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Ensuring the system is fair, transparent and lawful can minimise the risk of potential legal challenges. There are no direct resource implications arising from this report.

4.6 Risk Management

- 4.6.1 There are a number of risks associated with the decision making process which are both financial and reputational. The measures, processes and future service improvements outlined in the report seeks to minimise the risk of challenge.

5 Conclusions

- 5.1 Planning decisions made by the local planning authority can have far reaching implications, in terms of the effect on the future quality of the environment and also the amenities of local residents of the city. Decisions have the potential to effect the lives of many people. It is therefore important that the decision making process is robust. Committee can be assured that the arrangements that are in place to underpin the decision making process are accountable, transparent and effective. The service places emphasis on ensuring there is good governance and quality assurance.

- 5.2 There is a commitment to a programme of continuous improvement activity in all areas of planning decision making. Changes to the pre-application presentation process at panel and Section 106 contributions on employment and skills means there is more transparency in the process, aiding public confidence in the system.
- 5.3 Progress continues to be made on complaints, evidenced through the reduction in overall number and reduction in the number of those upheld. A recent useful session at the planning officer case workers meetings emphasised the need for consistency of approach to minimise the risk of complaints being made on similar grounds. However, the service is not complacent and the Town and Parish Council survey and other customer surveys will help us to identify the areas which need improvement in strengthening the process.
- 5.4 Looking ahead, it is envisaged that there will be some revised version of a code of practice for the determination of planning matters for members in due course, once the provisions in the Localism Act on the standards regime is in place. This code will support members carry out their role as champions of their communities, whilst being able to make decisions openly, impartially with sound judgements and for justifiable reasons.

6 Recommendations

6.1 Members are asked to:

- i) note the contents of this report and the robust assurance that it provides in terms of the methodology used in taking planning decisions at the Council ;
- ii) receive a report on planning decisions on an annual basis

7 Background documents

HMSO Planning and Compulsory Purchase Act 2004

Leeds City Council Executive Board report housing appeals – implications of the Secretary of State's decision relating to land at Grimes Dyke, East Leeds, 22 June 2011

CLG Planning statistical release, Planning applications: April to September 2011 (England)

Leeds City Council Constitution, Part 3 Section 2B Plans Panels terms of Reference

Leeds City Council Constitution, Part 3 Section 2C Chief Planning Officers Delegation Scheme

Leeds City Council Constitution Part 5 Code of Practice for the Determination of Planning Matters

Council Committees' Terms of Reference

Appendix 1

Plans Panels

The Plans Panels are authorised¹ to discharge² the following functions³

1. all Council (non-executive)⁴ functions relating to:
 - (a) town and country planning and development control⁵;
 - (b) safety certificates for sports grounds and fire certificates⁶;
 - (c) common land or town and village greens⁷;
 - (d) street works and highways⁸;
 - (e) public rights of way⁹;
 - (f) the protection of hedgerows and the preservation of trees¹⁰; and
 - (g) high hedges¹¹
2. in respect of any approval, consent, licence, permission, or registration which they may grant:
 - (a) to impose conditions limitations or restrictions;
 - (b) to determine any terms;
 - (c) to determine whether and how to enforce any failure to comply;
 - (d) to amend, modify, vary or revoke; and/or
 - (e) to determine whether a charge should be made or the amount of such charge.

¹ Each Plans Panel is authorised to discharge functions in respect of its own geographical area as indicated on the plan attached (A larger scale more detailed copy of the plan is maintained by the Chief Planning Officer)

² With the exception of any licensing function under the Licensing Act 2003, the Panels and the Council may arrange for any of these functions to be discharged by an officer – the functions for the time being so delegated are detailed in Section 2 of Part 3 of this Constitution.

³ 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions

⁴ Local Authorities (Functions and Responsibilities)(England)Regulations 2000 as amended

⁵ Items 5-31, Para. A of Schedule 1 of the 2000 Regulations

⁶ Items 26 and 27 of Para B of Schedule 1 of the 2000 Regulations

⁷ Items 37, 38 and 72 of Para B and Items 51-53 of Para I of Schedule 1 of the 2000 Regulations

⁸ Items 41,46A to 55 of Para B of Schedule 1 of the 2000 Regulations

⁹ Part I of Para I of Schedule 1 of the 2000 Regulations

¹⁰ Items 46 and 47 of Para I of Schedule 1 of the 2000 Regulations

¹¹ Item 47A of Para. I of Schedule 1 of the 2000 Regulations

3. to discharge any licensing function¹², where full Council has referred a matter to the panel.

Appendix 2

Chief Planning Officer

SECTION 1

With the exception of those matters where the Director of City Development has directed that the delegated authority should not be exercised and that the matter should be referred to him/her or the relevant committee for consideration and, subject to the exceptions listed below (in Section 3), the Chief Planning Officer¹ is authorised to discharge the following Council (non-executive) functions:

Town and Country Planning and Development Control

(a)	To issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975
(b)	To issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Part II of the Fire Safety and Safety of Places of Sport Act 1987

SECTION 2

Subject to the exceptions listed below (in Section 3), the Chief Planning Officer² is authorised to discharge the following Council (non-executive) functions:

¹² (section 7 (5) (a) of the Licensing Act 2003) The matter must relate to:

- a licensing function of the licensing authority and
- a function which is not a licensing function

Unless the matter is urgent, the Panel must consider a report of the Licensing Committee in respect of the matter before discharging the function concerned (Section 7 (6))

^{1 & 2} The fact that a function has been delegated to the Chief Officer does not require the Chief Officer to give the matter his/her personal attention and the Chief Officer may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the Chief Officer remains responsible for any decision taken pursuant to such arrangements.

Town and Country Planning and Development Control

(c)	To determine application for planning permission	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
(d)	To determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990
(e)	To grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990
(f)	To decline to determine application for planning permission	Section 70A of the Town and Country Planning Act 1990
(g)	Duties relating to the making of determinations of planning applications	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder
(h)	To determine application for planning permission made by a local authority, alone or jointly with another person	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492)
(i)	To make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418)
(j)	To enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
(k)	To issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
(l)	To serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
(m)	To grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
(n)	To authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
(o)	To require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
(p)	To issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990
(q)	To serve a planning contravention notice, breach of condition notice or stop notice	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
(r)	To issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990
(s)	To apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
(t)	To determine applications for hazardous	Sections 9(1) and 10 of the Planning

	substances consent, and related powers	(Hazardous Substances) Act 1990
(u)	To determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c 25) and paragraph 6(5) of Schedule 14 to that Act
(v)	To require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
(w)	To determine application for listed building consent, and related powers	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(x)	To determine applications for conservation area consent	Section 16(1) of the Planning (Listed Buildings and Conservation Areas Act 1990 , as applied by section 74(3) of that Act
(y)	Duties relating to applications for listed building consent and conservation area consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 26 of Department of the Environment , Transport and the Regions Circular 01/01
(z)	To serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings and Conservation areas) Act 1990
(aa)	To issue enforcement notice in relation to demolition of listed building in conservation area	Section 38 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(bb)	To acquire a listed building in need of repair and to serve a repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(cc)	To apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(dd)	To execute urgent works	Section 54 of Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990

Commons Registration

(a)	To register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to (i) an exchange of lands affected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c 67) or	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (SI 1969/1843)
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	(ii) an order section 147 of the Inclosure Act 1845 (c8 & 9 Vict c 118)	
(b)	To register variation of rights of common	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471)
(c)	Functions relating to the registration of common land and town or village greens	<u>Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)</u>
(d)	Power to apply for an enforcement order against unlawful works on common land	<u>Section 41 of the Commons Act 2006</u>
(e)	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	<u>Section 45(2)(a) of the Commons Act 2006.</u>
(f)	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	<u>Section 45(2)(b) of the Commons Act 2006</u>

Hedgerows and Trees

(a)	The protection of important hedgerows	The Hedgerows Regulations 1997
(b)	The preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999

High Hedges

(a)	Complaints about high hedges	Part 8 of the Anti-Social Behaviour Act 2003
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SECTION 3

Exceptions:

The Chief Planning Officer is not authorised³ to discharge the following functions:

Town and Country Planning and Development Control

(a)	the determination of applications following a written request ⁴ to the Chief Planning Officer by a Ward Member <ul style="list-style-type: none"> concerning an application within the Ward he/she represents, or concerning an application within a neighbouring Ward where that Ward Member considers that the development would have a significant effect on the ward he/she represents
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³ Under this delegation scheme (council functions). A Plans Panel may however arrange for the discharge of **any** of its functions by the Chief Planning Officer - (Section 101(2) Local Government Act 1972).

	that an application be referred to the relevant Plans Panel;
(b)	the determination of applications for development that would constitute a significant departure from the Development Plan, including a significant departure from any Local Development Framework currently in force;
(c)	the determination of applications for development that would be materially different from any supplementary planning guidance or planning brief approved by or on behalf of the Council;
(d)	the determination of applications for major development ⁵ which the Chair ⁶ considers are sensitive, controversial or would have significant impacts on local communities;
(e)	the approval of applications, where approval would reverse a previous decision taken by Plans Panel;
(f)	the approval of applications, where approval would conflict with an objection raised by a statutory technical consultee;
(g)	where the Chair ⁷ considers that the application should be referred to the relevant Plans Panel for determination because of the significance, impact or sensitivity of the proposal;
(h)	the determination of applications submitted in a personal capacity by or on behalf of Members, Directors or any other officer who carries out development management functions.

Commons Registration

(a)	Where objections have been received.
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⁵ "Major Development" for these purposes means:

- Residential development involving the erection of ten or more dwellings or, if the number of dwellings are not known, sites of 0.5 hectares or more.
- Other development proposals (apart from minerals and waste development) where the application would result in the erection of gross floorspace of not less than 1,000 msq, or sites of 1 hectare or more.
- Minerals and waste development where the application does require an Environmental Impact Assessment

⁶ In conjunction with the Chief Planning Officer

⁷ In conjunction with the Chief Planning Officer

⁴ This request must be made to the Chief Planning Officer and should normally be made within 21 days of the date of validation. The application can be legally determined after the 21 day statutory advertisement deadline if no such request has been received by that deadline. The request must set out the reason(s) for the referral based on material planning consideration(s) and must give rise to concerns affecting more than neighbouring properties (these being those which are notified by means of a letter as part of the Council's policy regarding publicity on householder planning applications).